

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 12/3/2024
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JUAN IGARTUA,

Plaintiff,

-v-

HAPPY DAYS DISPENSARY INC.,

Defendant.
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24-cv-6594 (LJL)

MEMORANDUM AND
ORDER

LEWIS J. LIMAN, United States District Judge:


Plaintiff filed his complaint on August 30, 2024, but has not yet filed proof of service as required by Federal Rule of Civil Procedure 4(l)(1). Federal Rule of Civil Procedure 4(m) states that “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m); *see also Labombard v. City of New York*, 2023 WL 3841858, at *1 (S.D.N.Y. June 6, 2023) (“As the Federal Rules make clear, ‘[t]he plaintiff is responsible for having the summons and complaint served within the time allowed by Rule 4(m).’” (citing Fed. R. Civ. P. 4(c)(1))).

The Court held an initial pretrial conference on December 3, 2024. No party attended. “Federal Rule of Civil Procedure 41 permits the Court to dismiss an action *sua sponte* for failure to prosecute or failure to comply with an order of the Court.” *Farion v. Ezzo*, 2020 WL 5578294, at *1 (S.D.N.Y. Sept. 17, 2020) (citation omitted).

Plaintiff shall show cause no later than December 17, 2024, why this case should not be dismissed for failure to prosecute or for failure to effect timely service. Failure to respond by December 17, 2024 may result in dismissal.

SO ORDERED.

Dated: December 3, 2024
New York, New York



LEWIS J. LIMAN
United States District Judge